

The Salisbury Planning Board held its regular meeting Tuesday, June 12, 2007, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

PRESENT: Dr. Mark Beymer, Tommy Hairston, Richard Huffman, Craig Neuhardt, Sandy Reitz, Valarie Stewart, Albert Stout, Price Wagoner and Diane Young

ABSENT: Karen Alexander, Robert Cockerl, and Jeff Smith

STAFF: Janet Gapen, Dan Mikkelson, Preston Mitchell, Diana Moghrabi, Joe Morris, David Phillips, and Mark Wineka of the *Salisbury Post* covered the meeting.

Dr. Mark Beymer, Chairman, called the meeting to order and offered an invocation. The minutes of the May 22, 2007, meeting were approved as published. The Planning Board adopted the agenda as submitted.

NEW BUSINESS

North Main Small Area Plan

Janet Gapen made a presentation on the North Main Small Area Plan for Planning Board information. A Courtesy Hearing will be held at the June 26 Planning Board meeting when Planning Board can choose to adopt the plan and make a recommendation to the City Council. The public will be notified of the Courtesy Hearing.

The purpose of the plan is to provide a recommendation for land use and infrastructure that are in alignment with the neighborhood's vision for its future. The study went through a process whereby staff and stakeholders took a trolley tour of the area, a neighborhood assessment was done by residents, a photographic survey was conducted by residents, there were committee meetings to discuss livability issues and concerns, and a design workshop was held.

The most valued features of the neighborhood include the fact that it is an attractive neighborhood, it is architecturally interesting and in an historic district, there exists racial and socioeconomic diversity, there are mature trees and landscaping, and the location is close to downtown and to City Park.

The most pressing challenges for this neighborhood are the amount of rental properties, vacant or rundown businesses and homes, a need for pedestrian / bicycle facilities and repairs, the traffic conditions (North Main Street), there exists various appearance issues, and crime.

Ms. Gapen presented data on zoning, landmarks, land use patterns, and implications for the draft of the future land development ordinance, ownership patterns, relative conditions of the housing, and patterns of neglected properties. The neighborhood has a number of sidewalks that are aging and in need of repair. There is software called "City Green" that demonstrates the tree canopy in the area. There is an opportunity to create open space on vast old parking lots.

The plan is organized into six goals with some specific recommendations under each category: (1) build neighborhood identity, (2) expand the transportation network, (3) improve neighborhood services and amenities, (4) increase trees and open space—capitalize on opportunities, (5) improve housing conditions, and (6) improve neighborhood appearance (like parking on the front lawns).

Group Developments

Dr. Mark Beymer explained the Courtesy Hearing process. David Phillips made the staff presentation for the following group developments.

G-01-73 Mitchell Avenue Medical Park
810 Mitchell Avenue
Tax Map 061-A, Parcel 010, Zoning LOI

Mr. George Morgan of Summit Developers submitted the application for a revision to the previously approved group development for the addition of a retaining wall along the northeastern property line. The Technical Review Committee (TRC) recommends approval to the Planning Board of the application, with the following recommendation.

The retaining wall is required due to the change in the grade along the property line. This will allow for a lesser slope along the side planting yard. The required landscaping of a double-row planting as previously approved will remain. The landscape buffer is to provide visual separation within three years of the completion time. A couple of damaged trees should be replaced. The developer is also installing a 4-foot-high black, vinyl-coated chain link fence along the top of the wall. TRC is recommending a more decorative fence be installed in lieu of the chain link fence.

Public Comment

Andrew Pitner, 320 Mitchell Avenue, President of Fulton Heights Neighborhood Association, spoke in opposition to the chain link fence—the neighborhood supports the recommendation of a decorative fence. A decorative fence could provide more of a buffer between this commercial development and the neighborhood.

Dawn Isenberg, of 721 Mitchell Avenue, stated that her front porch is about 100 feet from the corner and she has a lovely shot of the “red pit.” She can see all of Harold B. Jarrett now and all of the construction and buildings. She would like to see trees and something besides a chain link fence. She thinks it is just a cheap way out for the ugly brick box on the end of the triangle. She would like to see more than an ugly construction site that has been “plopped” down and squeezed into a neighborhood.

George Morgan of Summit Developers, 120 Statesville Avenue, stated that the request for the chain link fence and retaining wall are coming from the owner of the adjacent property owner, who has small grandchildren. Summit Developers could probably have gotten by with the slope, but she was gracious enough to allow workers to enter her property during construction and they agreed to make improvements for safety—this was the recommendation. The shrubbery will most likely entwine the chain link fence and disappear in a few years.

Board Discussion

Diane Young objected to the Mitchell Avenue side of the site, where the retaining wall tapers down. **Sandy Reitz** agreed that the density of the vegetation is important. **David Phillips** said modification of the code can be more restrictive but it cannot be less restrictive. The Board could recommend complete visual separation from the parking lot to the street.

Valarie Stewart suggested that the developer meet with the neighborhood and get recommendations from them about decorative fencing. **Albert Stout** said that since staff recommended decorative fencing, they should provide a guideline about what decorative means. **Dick Huffman** asked about fencing guidelines; Salisbury currently has guidelines for fencing only in historic districts. **David Phillips** stated that, if the Planning Board makes a requirement for decorative fencing, the Board will have to direct staff as to what kind of decorative fencing they recommend. (i.e. metal picket, stockade, etc.) **Preston Mitchell** added that the necessity for clarification on the decorative fence is that, if the board recommended that modification to the plan, (since fencing is not currently regulated under Salisbury's zoning ordinance) and City Council supported that recommendation, then the decision is placed back on administrators to decide what is or is not decorative. It is important to remove subjectivity.

Albert Stout felt that this site plan met all requirements of the City Code and recommended approval of G-01-73 without the staff recommendation of a decorative fence and did not address visual separation. **Dick Huffman** seconded the MOTION. **Diane Young** stated she would not vote in favor of this motion with a chain link fence on a street front and a promise that vegetation *might* provide adequate screening in three years. Those voting in favor of the motion were Albert Stout, Dick Huffman and Tommy Hairston. Those voting against the motion were Valarie Stewart, Diane Young, Mark Beymer, Sandy Reitz, Craig Neuhardt, and Price Wagoner. The motion was NAY (6-3)

Sandy Reitz made a MOTION to accept the TRC recommendation concerning the retaining wall and not accept the decorative fence recommendation—to accept the black vinyl coated fence and add a requirement for total visual separation (as it is required on a property line) along Mitchell Avenue for the extension of the wall. **Albert Stout** seconded the motion. The motion passed 8-1 with Diane Young opposed.

David Phillips said the landscaping plan will have to be amended to show additional vegetation.

Chairman Beymer said that this type of question is coming up more often and the Planning Board needs to be prepared to respond.

G-07-07 Autumn Care of Salisbury
1505 Bringle Ferry Road
Tax Map 057, Parcels 058 & 061, Zoning B-1 & B-1-S

Mr. Ben Campbell of Monroe submitted the application for the construction of a 13,587 square-foot addition to the existing nursing home facility located at 1505 Bringle Ferry Road. All zoning criteria have been met. The TRC recommends approval to the Planning Board of the application, as submitted.

Public Comment

None

Board Discussion

Albert Stout made a MOTION to approve **G-07-07** as submitted. **Price Wagoner** seconded the motion with all members voting AYE. (9-0)

G-07-02 Drummond Village Phase I
2800 Block Stokes Ferry Road
Tax Map 065, Parcels 008, 121, & 410, Zoning RD-A

Mr. Eric Wood of Salisbury submitted the application for a revision to the previously approved site plan regarding sidewalks and street trees.

Phase I was originally approved to have a 7-foot planting strip with street trees behind the curb and a 5-foot sidewalk at the back of the right-of-way. The proposal will have a 3-foot grass strip behind the curb, then a 5-foot sidewalk and an additional grass strip at the back of the right-of-way. One street tree will be planted on each lot within 4 feet of the back of the right-of-way. The proposal for Phase I will coincide with the remainder of the subdivision as approved by City Council in December 2006, including architectural details.

Staff requested the developer confirm the ownership of all the lots. If any of the lots have been sold, the current property owners must be a party to this petition. We have received written notification that Pilot Developers and CP Morgan are the current lot owners of Drummond Village Phase I. If there are any lots under contract, staff recommends that the potential buyer be notified of these proposed changes.

The TRC recommends approval to the Planning Board of the application, as submitted.

Public Comment

None

Board Discussion

Valarie Stewart made a MOTION to approve G-07-02 as submitted. **Tommy Hairston** seconded the motion with all members voting AYE. (8-0, Albert Stout left the room)

G-05-07 ARC of Rowan Apartments, Site 1
1010 South Fulton Street
Tax Map 013, Parcel 431, Zoning R-6-A

Mr. Ken Bell of Greensboro submitted the application for the construction of a 2,668 square-foot apartment complex with four units to be located at 1010 South Fulton Street. All zoning criteria have been met. The parking requirements have been reduced to one space per unit as granted by a variance approved by the Zoning Board of Adjustment. The TRC recommends approval to the Planning Board of the application, as submitted.

Public Comment

Andrew Pitner, 320 Mitchell Avenue, president of Fulton Heights Neighborhood Association, noted that the historic neighborhood boundaries are along one of the property lines and across the street. The neighborhood hopes that materials used in construction are appropriate to the surroundings.

Don Hesprich of 1110 S. Fulton did not think that the neighborhood needed another 4-unit apartment building. Those that are present in the neighborhood are woefully under inhabited. Most of the problems they have in the area have to do with the fact that the buildings are empty. There is a lot of congregation of troublemakers. He hopes this will build the neighborhood up, rather than becoming another "flophouse."

Kenneth Bell of Bell Architecture, 2706 Turner Grove Drive S., Greensboro, NC offered information about the communication they have had with the state historic preservation office (SHPO). They sought approval from that office before submitting plans to the city. This design was approved by the state office last fall; he could provide a letter of confirmation. The state office requires that siding cannot be vinyl or aluminum siding; it must be a wood or "Hardiplank" cementitious board. It will be a painted clapboard siding. The design is in keeping with the scale and the historic detailing, which the state had observed in the neighborhood.

This job will have long-term rent subsidies; the people who will be operating it have a long list of tenants who are going to be delighted to be a part of this neighborhood. After 25 years of experience with this client, he can say that they have had extremely low vacancy rates. The properties are maintained at a higher level than his own. Maintenance has always been exemplary in his experience.

Board Discussion

Diane Young observed that zoning certainly allows this use at this site. She recognized the issues of rental properties and vacancies in the Fulton Heights area. She was pleased to hear that they had gone through the state's historic preservation office and environmental review. This is the second case today that makes a strong argument for Fulton Heights developing into a locally designated historic district, which then the neighborhood has some ability to deal with design issues.

Diane Young then made a MOTION to approve G-05-07 as submitted. **Albert Stout** seconded the motion with all members voting AYE. (9-0)

Dick Huffman asked if this was a group home; **David Phillips** said it was for independent living and not for the general public.

G-06-07 ARC of Rowan Apartments, Site 2
210 E 15th Street
Tax Map 007, Parcel 131, Zoning B-1

Mr. Ken Bell of Greensboro submitted the application for the construction of a 2,668 square-foot apartment complex with four units to be located at 210 E. 15th Street. All zoning criteria have been met. The parking requirements have been reduced to one space per unit, as granted by a variance approved by the Zoning Board of Adjustment. A condition of the variance required the parking be located to the rear of the structure. The TRC recommends approval to the Planning Board of the application, as submitted.

Public Comment

Mr. Bell was available for comment. **Sandy Reitz** confirmed the fact that the ARC oversees the maintenance of the grounds.

Board Discussion

Albert Stout made a MOTION to approve G-06-07 as submitted. **Sandy Reitz** seconded the motion with all members voting AYE. (9-0)

G-08-07 Piedmont Eye Physicians and Surgeons, P.A.
530 Corporate Circle
Tax Map 060-B, Parcels 168 & P/O 169, Zoning M-1

Mr. Arnold Miller of Lexington submitted the application for the construction of a 22,328 square-foot medical facility to be located at 530 Corporate Circle. All zoning criteria have been met. The landscaping requirements have been approved by the Staff Review Committee for Alternate Methods of Compliance. The TRC recommends approval to the Planning Board of the application, as submitted.

This is the first phase of development. They will have a shared driveway with the adjacent facility. Because of the shared driveway, they cannot meet landscaping requirements so they have met the intent of the code through alternate methods of compliance.

Public Comment

A. L. Miller of 1650 East Center Street, Lexington, NC, made himself available on behalf of Dr. Ozzie Reynolds and Dr. James Kaufmann. An adjacent property owner contacted staff and stated that he had no opposition to the site plan.

Board Discussion

Albert Stout made a MOTION to approve G-08-07 as submitted. **Price Wagoner** seconded the motion with all members voting AYE. (9-0)

G-04-07 Wallace Commons
Intersection of Julian & Klumac Roads
Tax Maps 060 & 063, Parcels 03404, 067, 152, 056, & 064
Zoning M-1

Mr. Ryan Mosser of Charlotte, NC, submitted the application for the construction of a retail shopping center with a combined total of 358,535 square feet and six out parcels to be located at the intersection of Julian and Klumac Roads. All zoning criteria have been met. The landscaping requirements along the interior property lines have been approved by Alternate Methods of Compliance by the Staff Review Committee. The developer has also incorporated walkways in areas that provide pedestrian access from the main areas to the out parcels. The plan, if approved, will serve as the preliminary plat for the subdivision. The TRC recommends approval of the application as it is submitted to the Planning Board.

Three tracts (A, B, C) will have out parcels to the front—each of the buildings will be built independently and will stand alone in regards to landscaping. Pedestrian walkways are proposed. NCDOT has driveway requirements. Signs will be approved separately.

Public Comment

Michael Smith, partner with Collett and Associates of Charlotte, NC, and developer for this project, acknowledged that this is a complex project, and he made himself available to the Planning Board for questions.

Chairman Beymer thanked him for the detailed drawings provided in the Planning Board packets and stated that they were adequate for his review. The signs on the representation urged the curiosity of the board about what stores were indeed coming to Salisbury. **Mr. Smith** stated that one would be an electronics store.

Dick Huffman disclosed that the Wallaces are sometimes his client, but he has no financial interest in this project.

Albert Stout made a MOTION to approve **G-04-07** as submitted. **Tommy Hairston** seconded the motion with all members voting AYE. (9-0)

OTHER BOARD BUSINESS

Diane Young said that there are more and more cases coming before the Planning Board with subtle aesthetic details and comments from the TRC. "These things 'tug at my gut'; this is an issue we need to talk about, but when the board tries to address these comments and details, the door slams closed because we can only do so much." The proposed Land Development Ordinance (because it is a design-based ordinance code), if adopted, will address some of these issues that the Board wrestles with. She requested education for the Board on this topic.

Mark Beymer was satisfied with the decision today, but would like to see from staff four or five examples of what they have in mind. The Board does not want to guess what aesthetics the TRC has in mind as alternatives.

Preston Mitchell remarked that the TRC cannot suggest to our boards and commissions what is decorative because we are the administrators. Maybe it could be argued that TRC should no longer make "recommendations" that are outside the code; instead, point out areas of concern that the Planning Board and City Council may want to look at during their deliberations. The Board would need to reach an agreement on what is going to be "decorative" or not. In a previous decision to determine "all around architecture", staff was put in the position of deciding what would be considered "all around"—if the Board had recommended specific treatments to "dress-up" the homes, it could have moved forward in that manner.

This situation of adding conditions to Group Developments is very sticky, very uncomfortable, and pushing on illegitimate, because the zoning standards for a zoning district must always be the same for all properties under that zoning district. Site plan review (Group Development) is supposed to be ministerial. There isn't supposed to be a lot of discretionary review (adding

conditions) to site plan review unless you are operating within the appropriate legal bubble – such as an S-District rezoning or Special Use Permit hearing, both of which are quasi-judicial. However, our current code authorizes the Planning Board and City Council to modify a site plan with appropriate conditions. Staff and the Institute (Rich Ducker, et al) are uncomfortable with this and moving to change this situation. The new Land Development Ordinance (LDO) does not permit any discretionary plan review unless you are operating within those appropriate legal parameters: (1) the new Conditional District and (2) Special Use Permits. All other site plan review (Major & Minor Site Plans and Major & Minor Subdivisions) will become purely ministerial.

A higher quality, more aesthetically pleasing development in Salisbury is desirable, and we must continue to implement our Vision 2020 Plan, but we need to do so within the appropriate legal framework. All of those important aesthetic issues that we wrestle with at each Group Development hearing need to be codified—they need to become part of the zoning code. That way, we are guaranteed that those things will get done while the citizens/builders/developers are guaranteed fairness across zoning districts. The new LDO still gives Planning Board and City Council the authority to negotiate with developers, but only under the new Conditional District. This builds a level of expectation and trust that a builder/developer must have when building in our city. If he/she decides to propose a project that meets the code and chooses to go through the ministerial site plan review process, they must have that expectation that they won't get hung up by discretionary plan review on the Planning Board.



Planning Board made a MOTION to go past 6 o'clock.

Dick Huffman is very concerned about aesthetics also; that is part of what makes Salisbury what it is. What authority does the Planning Board have? If the code says this is proper as presented, how can the Planning Board go beyond the code?

Preston responded by saying that under the current group development language within the zoning ordinance, Salisbury's site plan review, it gives the Planning Board and City Council the authority to "approve, deny or modify." They cannot grant variances to the code.

- The next Planning Board meeting is June 26, 2007.

There being no further business to come before the Planning Board, the meeting was adjourned at 6:08 p.m.


Dr. Mark Beymer, Chair
Diane Young, Vice Chair
Secretary, Diana Moghrabi